



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2018-0105]

RIN 1625-AA87

Security Zone, Seattle's Seafair Fleet Week Moving Vessels, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its Seattle Seafair Fleet Week Moving Vessels Security Zone regulation. This amendment would change the information in annual notices of enforcement that are published both in the **Federal Register** and Local Notice to Mariners. This action is necessary because last minute changes in the vessels participating in the Parade of Ships during Fleet Week prevent the Coast Guard from identifying the designated participating vessels in the **Federal Register** within the allotted timeframe. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2018-0105 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY

INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Branch, U.S. Coast Guard; telephone 206-217-6051, email SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On July 10, 2012 (77 FR 40521), the Coast Guard Captain of the Port, Sector Puget Sound, published a final rule that became effective Aug. 1, 2012; the Seattle's Seafair Fleet Week Moving Vessels security zone. That final rule establishes a security zone around designated participating vessels that are not protected by the Naval Vessel Protection Zone in Seattle's Seafair Fleet Week Parade of Ships. Designated participating vessels are named by the Coast Guard each year prior to the event in a **Federal Register** notice, as well as the Local Notice to Mariners. These security zones are necessary to help ensure the security of the vessels from sabotage or other subversive acts.

The purpose of this rulemaking is to amend the information required in the Notice of Enforcement published in the **Federal Register** and Local Notice to Mariner and add the requirement to publish the names of participating vessel in a Broadcast Notice to

Mariners before the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Captain of the Port Puget Sound proposes to amend the provisions in 33 CFR 165.1333 regarding information published in the notice of enforcement for the annual security zone for Seattle's Seafair Fleet Weeks Parade of Ships. Currently, the Coast Guard publishes the names of the vessels participating in the Parade of Ships, in a notice of enforcement at least 3 days prior to the beginning of Seattle's Seafair. These are military vessels. In past years, some vessels participating in the Parade of Ships changed their plans due to operational needs, and as a result, the changes precluded the Coast Guard from providing sufficient notice in the **Federal Register**. This proposed amendment is necessary because the changing schedules of vessels sometimes makes it impossible to know which vessels will ultimately participate in the Parade of Ships and also provide timely notice in the **Federal Register**.

The Coast Guard proposes to amend the information required in the notice of enforcement to only include the date and time of the Parade of Ships, and not the names of the vessels. In order to provide notice to the public regarding the vessels requiring the security zone, the Coast Guard will provide notice to the public of the designated participating vessels by issuing a Broadcast Notice to Mariners before and during the event. In addition, the security zone will be enforced with actual notice during the Seattle Seafair Fleet Week each year. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that this rule would only change the mean in which the public will be notified about the security zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves amending the way in which the Coast Guard will notify the public which vessels are designated participants in Seattle's Seafair Fleet Week. Normally such actions are

categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have

provided. For more about privacy and the docket, visit
<http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.1333 by revising paragraphs (a) and (e) to read as follows:

§ 165.1333 Security Zones, Seattle's Seafair Fleet Week moving vessels, Puget Sound, WA.

(a) *Location.* The following areas are security zones: all navigable waters within 500 yards of each designated participating vessel in the Parade of Ships while each such

vessel is in the Sector Puget Sound Captain of the Port (COTP) zone, as defined in 33 CFR 3.65-10, during a time specified in paragraph (e) of this section.

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(e) *Annual enforcement period.* The security zones described in paragraph (a) of this section will be enforced with actual notice during Seattle Seafair Fleet Week each year for a period of up to 1 week. The Seattle Seafair Fleet Week will occur annually sometime between July 25 and August 14. The Coast Guard will publish an annual notice enforcement containing the dates that this section will be enforced in the **Federal Register** and Local Notice to Mariners. A Broadcast Notice to Mariners will also be issued before the start of the Seattle Seafair Fleet Week to identify the designated participating vessels for that year.

Dated: April 2, 2018.

Linda A. Sturgis,
Captain, U.S. Coast Guard,
Captain of the Port Puget Sound.

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